

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CHRISTIAN PABON MARTINEZ

VS.

**GOVERNMENT EMPLOYEES
INSURANCE COMPANY and
GATEWAY INSURANCE COMPANY**

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C.A. NO. 4:17-cv-01727
(JURY)

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant **GOVERNMENT EMPLOYEES INSURANCE COMPANY (“GEICO”)**, files this Notice of Removal of the present action from the 133rd Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division. In connection with this Notice of Removal, GEICO would respectfully show unto the Court as follows:

I. Introduction

1. This lawsuit began on or about January 27, 2017 when Plaintiff filed his Original Petition in Cause No. 2017-05827 in the 133rd Judicial District Court of Harris County, Texas, styled *Christian Pabon Martinez v. Government Employees Insurance Company and Krystal Hegger*. According to the Petition, Plaintiff was a passenger in an automobile that was involved in an accident on September 17, 2016. Plaintiff seeks underinsured motorist (“UIM”) benefits from GEICO, the company which insured Plaintiff at the time of the accident.

2. On May 26, 2017, Plaintiff filed his First Amended Petition, removing resident defendant Krystal Hegger and adding non-resident defendant Gateway Insurance Company. Plaintiff also seeks UIM benefits from Gateway Insurance Company, the company which insured

the automobile in which Plaintiff was a passenger at the time of the accident. Gateway Insurance Company has not yet been served with suit and/or has not yet made an appearance in the state court case.

II. Grounds for Removal

A. Complete Diversity of Citizenship Exists Between the Parties and the Amount in Controversy Exceeds \$75,000.

3. Removal is proper because there is complete diversity of citizenship between the parties and the alleged amount in controversy exceeds \$75,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(a)(1).

4. Plaintiff is a resident and citizen of Texas. *See* Pl.'s 1st Amend. Pet., at ¶ 2. GEICO is a non-resident corporation. It is incorporated in Maryland and has its principal place of business in Maryland. Gateway Insurance Company is also a non-resident corporation. It is incorporated in Illinois and has its principal place of business in Illinois.

5. Plaintiff's First Amended Petition alleges damages in an amount "over \$200,000 but not more than \$1,000,000." *See* Pl.'s 1st Amend. Pet., at ¶ 6. Additionally, the insurance proceeds under GEICO's policy that are in dispute are bodily injury benefits of \$300,000. The insurance proceeds under Gateway Insurance Company's policy that are also in dispute are bodily injury benefits of \$85,000. Thus, the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1332(a)(1).

B. Venue is Proper in This Division and in This District.

6. Plaintiff filed this action in Harris County, Texas. The Houston Division of the Southern District of Texas encompasses Harris County, Texas. *See id.* § 124(b)(2). Thus, this district and division embrace the place where the state court action is pending. *See id.* § 1441(a).

III. Procedural Requirements for Removal

7. Plaintiff filed his First Amended Petition on May 26, 2017, creating complete diversity. This Notice of Removal is being filed on June 7, 2017. Accordingly, this Notice of Removal is timely filed within 30 days of when GEICO received a copy of Plaintiff's First Amended Petition and within one year of the commencement of this suit. *See id.* § 1446(b).

8. A copy of this Notice of Removal will be filed with the Harris County District Clerk's office and served on the Plaintiff promptly. *See id.* § 1446(d); *see also Nixon v. Wheatley*, 368 F. Supp. 2d 635, 640 (E.D. Tex. 2005).

9. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81 of the Southern District of Texas, this Notice of Removal is accompanied by the following documents:

Exhibit A: An index of matters being filed;

Exhibit B: The state court docket sheet, all executed process in the case, all pleadings asserting causes of action, all answers to such pleadings, and all orders signed by the state judge;

Exhibit C: A list of all counsel of record, including addresses, telephone numbers, and parties represented.

10. The filing fee has been paid to the Clerk.

11. The filing of this notice, along with the filing of the notice in the state court and service of the notice upon Plaintiff's counsel, serves immediately to confer exclusive jurisdiction of this cause upon this Court, and divests the state court of all jurisdiction over these proceedings and claims.

IV. Prayer

12. For these reasons, **GOVERNMENT EMPLOYEES INSURANCE COMPANY** prays that the above-styled action now pending in the 133rd Judicial District Court of Harris County, Texas be removed to this Honorable Court pursuant to the Court's diversity

jurisdiction; that upon final trial, judgment be rendered that Plaintiff take nothing by his suit against **GOVERNMENT EMPLOYEES INSURANCE COMPANY**; and for such other and further relief to which **GOVERNMENT EMPLOYEES INSURANCE COMPANY** may be justly entitled.

13. This Notice of Removal is filed subject to and without waiver of any defenses or objections to Plaintiff's First Amended Petition as allowed by the Federal Rules of Civil Procedure or by any applicable law.

Respectfully submitted,

GERMER PLLC
2929 Allen Parkway, Suite 2900
Houston, Texas 77019
(713) 650-1313 – Telephone
(713) 739-7420 – Facsimile

By: /s/ Barbara L. Hachenburg
Barbara L. Hachenburg
Federal Bar No. 20036
Texas State Bar No. 08667070
bhachenburg@germer.com

ATTORNEY-IN-CHARGE FOR DEFENDANT

Of Counsel:

Gregory Howard
Texas Bar No. 24042989
Federal I.D. No. 619850
Germer PLLC
2929 Allen Parkway, Suite 2900
Houston, Texas 77019
(713) 650-1313 – Telephone
(713) 739-7420 – Facsimile
ghoward@germer.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was forwarded to all known counsel pursuant to the Federal Rules of Civil Procedure on this the 7th day of June, 2017.

/s/ Barbara L. Hachenburg
Barbara L. Hachenburg